

EXHIBIT E11

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

BARBARA WITTMAN, an
individual; JOHN WITTMAN,
an individual,

Plaintiffs,

vs.

BRENNTAG NORTH AMERICA,
INC., et al.,

Defendants.

CASE NO. BC 646439

DEPOSITION OF
WILLIAM E. LONGO, PH.D.

November 20, 2017

10:00 a.m.

Suite 100
11555 Medlock Bridge Road
Johns Creek, Georgia

Frances Buono, RPR, CCR-B-791

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APPEARANCES OF COUNSEL

On behalf of the Plaintiffs:

ADAM COOPER, Esq.
Weitz & Luxenberg
700 Broadway
7th Floor
New York, New York 10003
Acooper@weitzlux.com

JERRY KRISTAL, Esq.
Weitz & Luxenberg
220 Lake Drive East
Suite 210
Cherry Hill, New Jersey 08002
Jkristal@weitzlux.com

On behalf of the Defendant,
Johnson & Johnson:

KEVIN M. HYNES, Esq.
Orrick, Herrington & Sutcliffe, LLP
51 West 52nd Street
New York, New York 10019-6142
Khynes@orrick.com

On behalf of the Defendant,
Imerys Talc American, Inc.:

BRENDAN KRASINSKI, Esq.
Alston & Bird, LLP
One Atlantic Center
1201 West Peachtree Street
Atlanta, Georgia 30309-3424
Brendon.krasinski@alston.com

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15:57:34 **1 problem with, or 5-to-1, greater than 5-to-1 I do. I**
 15:57:37 **2 mean, you could have 20-to-1, 30-to-1, 40-to-1. So**
 15:57:42 **3 no, I don't agree with that.**
 15:57:43 **4 Q.** Okay. Next sentence says, "The
 15:57:44 **5 distinction of how to tell an asbestos fiber from a**
 15:57:47 **6 cleavage fragment is currently being debated within**
 15:57:51 **7 the scientific community."**
 15:57:52 **8 Do you agree that there's some debate**
 15:57:55 **9 within the scientific community about --**
 15:57:57 **10 A. I would agree that as I've already**
 15:57:59 **11 discussed numerous times, on single fibers, I'm not**
 15:58:04 **12 aware of a method, without knowing the source of the**
 15:58:08 **13 material, if it's asbestiform or not.**
 15:58:13 **14 Q.** Okay.
 15:58:14 **15 A. At the TEM level.**
 15:58:16 **16 Q.** I'm not -- can you read back the answer?
 15:58:36 **17 (The record was read by the reporter.)**
 15:58:36 **18 Q.** (By Mr. Krasinski) In that answer were
 15:58:38 **19 you referring to you're not aware of a method for**
 15:58:42 **20 distinguishing single fibers of cleavage fragment**
 15:58:45 **21 versus asbestiform fibers?**
 15:58:47 **22 A. At the TEM level at high magnification**
 15:58:52 **23 when you're dealing with a single fiber without any**
 15:58:54 **24 other information, no, I'm not aware of a method.**
 15:59:00 **25 Q.** Okay. So then how did you characterize
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15:59:03 **1 your -- the fibers that you found as asbestos fibers**
 15:59:07 **2 and not cleavage fragments?**
 15:59:11 **3 A. Because the counting rules by TEM, as**
 15:59:18 **4 we've already discussed, and in those counting rules**
 15:59:21 **5 it states that if it meets this criteria it is an**
 15:59:24 **6 asbestos fiber. Doesn't say asbestos fiber, doesn't**
 15:59:32 **7 say asbestiform fiber, it says here's the counting**
 15:59:35 **8 rules for asbestos at the TEM magnifications. And I**
 15:59:40 **9 have to take a short break.**
 16:00:13 **10 Q.** Sure.
 16:00:13 **11 (Off the record.)**
 16:02:54 **12 Q.** (By Mr. Krasinski) So we're back on
 16:03:03 **13 Page 42 where we left off. The first full paragraph**
 16:03:07 **14 there. And here Millette says, "A population of**
 16:03:10 **15 fibers as observed in a bulk sample having the**
 16:03:13 **16 asbestiform habit is generally recognized by several**
 16:03:17 **17 characteristics. These include mean aspect ratios in**
 16:03:19 **18 the range from 20-to-1 to 100-to-1 or higher for**
 16:03:24 **19 fiber longer than 5 microns."**
 16:03:26 **20 So now again, this is now Millette is**
 16:03:30 **21 saying that you can look at -- to characterize**
 16:03:34 **22 asbestos you should look at a population of fibers**
 16:03:36 **23 and that population should have mean aspect ratios**
 16:03:40 **24 20-to-1 and up.**
 16:03:42 **25 Do you agree that that's what he's saying**
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16:03:46 **1 here?**
 16:03:46 **2 A. That's what is stated here. It just**
 16:03:50 **3 parrots what's in the R-93. I disagree that this is**
 16:03:55 **4 how you characterize asbestos, that it doesn't**
 16:03:58 **5 require this.**
 16:03:59 **6 And again, I can go through all the**
 16:04:01 **7 reasons in the past, but I disagree with this. If**
 16:04:05 **8 you have a grab sample, as I've talked about before,**
 16:04:08 **9 if you have a grab sample out of a mine, you can**
 16:04:12 **10 probably use this to characterize it, but this has**
 16:04:17 **11 nothing to do with TEM analysis. Nothing.**
 16:04:22 **12 Q.** Right. Just goes on to list the other
 16:04:25 **13 criteria that we've seen. But I want to look at just**
 16:04:29 **14 focusing on the first sentence there in the second**
 16:04:32 **15 full paragraph, not the bullet points.**
 16:04:35 **16 Millette says, "It is more difficult to**
 16:04:37 **17 classify individual fibers as to asbestiform or**
 16:04:39 **18 cleavage fragments because individual fibers do not**
 16:04:45 **19 exhibit all the characteristics of a population."**
 16:04:47 **20 Do you agree with that?**
 16:04:51 **21 MR. COOPER: I'm sorry, I think it's fair**
 16:04:55 **22 that you need to read it in context with the**
 16:04:57 **23 next line or lines before -- this is the problem**
 16:05:01 **24 without having seen the document, and I**
 16:05:03 **25 understand you're trying to get me out of here;**
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16:05:05 **1 however, I do have a job to do.**
 16:05:08 **2 So I think it may be fair for him to read**
 16:05:10 **3 on a little more, at least in my opinion, gives**
 16:05:12 **4 it a little bit more context to be able to**
 16:05:14 **5 answer that question.**
 16:05:24 **6 THE WITNESS: I would agree with that if**
 16:05:26 **7 it's -- as long as the two sentences are put in**
 16:05:30 **8 there, you know, "With the exception of the**
 16:05:32 **9 requirements given in the TEM standard methods**
 16:05:34 **10 that the asbestos fibers have substantially**
 16:05:36 **11 parallel or stepped sides," and so on and so**
 16:05:42 **12 forth.**
 16:05:42 **13 But, I've said I don't know how many times**
 16:05:44 **14 on the TEM side, asbestos characterized by very**
 16:05:49 **15 thin, usually less than point width and two or**
 16:05:55 **16 more of the following, parallel -- occurring in**
 16:05:56 **17 bundles. Fiber bundles displaying the splayed**
 16:05:59 **18 ends, matted masses of individual fibers, and**
 16:06:00 **19 fibers showing curvature.**
 16:06:03 **20 At the TEM level you're only going to see**
 16:06:05 **21 the first one, usually. You don't see fiber**
 16:06:07 **22 bundles typically displaying splayed ends,**
 16:06:12 **23 that's not a size of a bundle seen in the TEM.**
 16:06:21 **24 Q.** (By Mr. Krasinski) And then the paragraph
 16:06:39 **25 goes on -- if you want to read it you're welcome to.**
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16:06:41 **1** Obviously it goes on to discuss this figure 2.11 at
 16:06:47 **2** the top, which is comparing aspect ratios for
 16:06:52 **3** tremolite fibers from the standard reference material
 16:06:54 **4** 1876, tremolite asbestos and tremolite from a talc
 16:06:58 **5** sample.
 16:07:01 **6** Do you see that?
 16:07:02 **7** **A. Yes.**
 16:07:02 **8** **Q.** And again, you're welcome to read whatever
 16:07:07 **9** you want, but there's a sentence in about the bottom
 16:07:13 **10** third of that paragraph where Millette says, "The
 16:07:16 **11** population of tremolite fibers in talc" -- and he's
 16:07:19 **12** referring to the population in figure 2.11. "The
 16:07:23 **13** population of tremolite fibers in talc is considered
 16:07:25 **14** to be nonasbestiform because the mean aspect ratio is
 16:07:32 **15** less than 20-to-1."
 16:07:34 **16** Would you disagree that the population of
 16:07:36 **17** fibers -- would you agree or disagree that the
 16:07:39 **18** population of fibers in this analysis should be
 16:07:42 **19** considered nonasbestiform?
 16:07:44 **20** **A. No.**
 16:07:44 **21** **Q.** Okay. Why not?
 16:07:47 **22** **A. You have to read the whole thing. It's**
 16:08:02 **23** **talking about bulk samples found in bulk -- samples.**
 16:08:07 **24** **So what Dr. Millette is trying to say here is if you**
 16:08:11 **25** **use this other criteria that it's less than 20-to-1**
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16:08:15 **1** **for the bulk samples above, then some people would**
 16:08:18 **2** **say that's not asbestos; however, if you look at the**
 16:08:21 **3** **NIST 1876 where that is asbestos, it has this range**
 16:08:26 **4** **of aspect ratios that are similar, in fact -- that**
 16:08:36 **5** **are less than 10 to 20-to-1.**
 16:08:41 **6** **So you can't take these PLM bulk samples**
 16:08:43 **7** **with this arbitrary 20-to-1 to 100-to-1, there has to**
 16:08:44 **8** **be some distribution in there for that to happen.**
 16:08:49 **9** **Again, we're dealing with PLM analysis of**
 16:08:54 **10** **a draft method versus TEM that has very specific**
 16:08:57 **11** **counting rules for what you call asbestos.**
 16:08:59 **12** **Q.** Okay. So we've just looked at a couple of
 16:09:08 **13** different papers, articles, methods, that have
 16:09:11 **14** recommended looking at population of fibers when
 16:09:15 **15** trying to determine whether asbestos is present.
 16:09:16 **16** **A. No, that's not what we did. What you did**
 16:09:18 **17** **was try to look at what people are saying about**
 16:09:22 **18** **polarized light microscopy and specifically about a**
 16:09:25 **19** **draft EPA method and then trying to say this is what**
 16:09:28 **20** **you're supposed to do over in TEM analysis. It's two**
 16:09:32 **21** **completely different things.**
 16:09:33 **22** **Q.** I'm not asking that. Again, you could do
 16:09:35 **23** both; right?
 16:09:38 **24** **A. We could do both.**
 16:09:39 **25** **Q.** And if you did PLM, you would be able to
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16:09:43 **1** look more at a population of the fibers; correct?
 16:09:45 **2** **A. No. For these types of ground and milled**
 16:09:51 **3** **cosmetic talc, you're not going to see this**
 16:09:55 **4** **population of fibers. You're looking at an**
 16:09:58 **5** **artificially ground up material. You're not looking**
 16:10:01 **6** **what comes out of the ground.**
 16:10:03 **7** **You're trying to say what comes out -- the**
 16:10:06 **8** **definition of asbestos by this draft EPA method, what**
 16:10:10 **9** **comes out of the ground or walking around and picking**
 16:10:12 **10** **up a grab sample is completely different than what**
 16:10:17 **11** **you've done to this sample to get it in the cosmetic**
 16:10:21 **12** **talc. 200 mesh, you're grinding it. TEM is the only**
 16:10:25 **13** **method to determine that.**
 16:10:26 **14** **Q.** Okay. Are you aware that in 1992 OSHA
 16:10:39 **15** revised its asbestos standard?
 16:10:47 **16** **A. OSHA had a criteria because they looked at**
 16:10:50 **17** **cleavage fragments and said don't count cleavage**
 16:10:54 **18** **fragments. And then OSHA never changed their**
 16:10:57 **19** **criteria for their greater than 3-to-1 aspect ratio**
 16:11:00 **20** **in their '94 7400 Method for PCM and the 7402 Method,**
 16:11:04 **21** **so the only thing I can deduce in that is OSHA said**
 16:11:08 **22** **something but then abandoned it because their**
 16:11:10 **23** **methodology never changed.**
 16:11:12 **24** **Q.** So when OSHA removed cleavage fragments
 16:11:19 **25** from its criteria, do you know why they did that,
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16:11:24 **1** what their rationale was?
 16:11:27 **2** **A. Well, let's see. I'm not sure what the**
 16:11:31 **3** **rationale is. Certainly if it doesn't have parallel**
 16:11:34 **4** **sides -- but OSHA never changed their counting**
 16:11:38 **5** **protocol.**
 16:11:39 **6** **Before they came up with this criteria it**
 16:11:41 **7** **was greater than 3-to-1 aspect ratio, greater than**
 16:11:45 **8** **5 micrometers in length, and greater than**
 16:11:48 **9** **.25 micrometers in width and had to have parallel**
 16:11:52 **10** **sides. After when they issued the '94 7400 Method,**
 16:11:55 **11** **nothing changed.**
 16:12:03 **12** **Q.** Have you reviewed a document that NIOSH
 16:12:14 **13** put out in 2011 referred -- well, let me just show
 16:12:25 **14** it -- let's go ahead and mark it. So this will be --
 16:12:31 **15** make sure I'm giving you the right one here.
 16:12:35 **16** **A. I haven't reviewed that.**
 16:12:36 **17** **Q.** You haven't reviewed this?
 16:12:37 **18** **A. No.**
 16:12:59 **19** (Defendants' Exhibit 35 was marked for
 16:12:59 **20** identification.)
 16:12:59 **21** **Q.** (By Mr. Krasinski) So we have marked as
 16:13:00 **22** Exhibit 35 the NIOSH Current Intelligence Bulletin
 16:13:06 **23** 62, Asbestos Fibers and Other Elongate Mineral
 16:13:08 **24** Particles: State of the Science and Roadmap for
 16:13:11 **25** Research, Revised Edition.
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16:13:13 1 And you said this is not something that
16:13:14 2 you have seen; correct?
16:13:16 3 A. People have showed it to me lately, but I
16:13:20 4 have not reviewed it to any degree so I can talk
16:13:24 5 intelligently about it.
16:13:25 6 Q. Okay. Were you aware that -- were you
16:13:41 7 aware that 1990 NIOSH kept nonasbestiform amphiboles
16:13:49 8 in its definition of asbestos fibers?
16:13:52 9 A. I don't know if I was aware one way or the
16:13:57 10 other.
16:13:57 11 Q. So you weren't aware -- okay.
16:13:59 12 So you don't know what NIOSH's definition
16:14:02 13 of asbestos fibers was in its 1990 recommendation
16:14:08 14 concerning occupational exposure to airborne asbestos
16:14:11 15 fibers?
16:14:12 16 A. We do the NIOSH protocol all the time, the
16:14:18 17 '94 7400, and its definition of a fiber is a 3-to-1
16:14:24 18 aspect ratio -- greater than a 3-to-1 aspect ratio or
16:14:31 19 3-to-1 or greater aspect ratio, greater than
16:14:34 20 5 micrometers, greater than about .25 micrometers in
16:14:36 21 width. That's their definition of a fiber. They
16:14:39 22 don't identify it as asbestos -- or you can't
16:14:41 23 identify asbestos or nonasbestos.
16:14:43 24 And then they have their definition of the
16:14:45 25 7400 Method. 7402 Method, which is a TEM method.
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16:14:50 1 That takes the same size fibers and if it is
16:14:53 2 asbestos, then you count it as asbestos according to
16:14:57 3 the 7402 Method.
16:14:59 4 Q. Okay. Are you willing to look at what's
16:15:03 5 in here?
16:15:04 6 A. I have to read the whole thing. I mean, I
16:15:06 7 just told you my opinion that what we do today is it
16:15:12 8 has a certain criteria and you call it asbestos. The
16:15:15 9 7402 Method. Nothing has changed. When is this,
16:15:21 10 1990?
16:15:22 11 Q. No, 2011. This document is 2011.
16:15:25 12 A. But if you're talking about what they said
16:15:26 13 in 1990, nothing has changed with NIOSH in the way
16:15:30 14 they're analyzing it and calling it asbestos.
16:15:32 15 Q. I understand. Are you aware that in 1990
16:15:38 16 NIOSH explicitly included elongated mineral particles
16:15:43 17 from the nonasbestiform amphiboles in its 1990
16:15:46 18 revised definition of airborne asbestos fibers?
16:15:51 19 A. No.
16:15:51 20 Q. Okay. Are you aware that in this document
16:15:56 21 that they say that decision was based on inconclusive
16:15:59 22 science and contrast with the regulatory approach
16:16:03 23 subsequently taken by OSHA and MSHA?
16:16:05 24 A. Again, I haven't read this. I don't have
16:16:08 25 an opinion one way or another on what it clashes or
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16:16:12 1 doesn't clash with.
16:16:17 2 Q. Are you aware on Page 7 of this document
16:16:20 3 -- well, on Page 7 of this document it says, "NIOSH
16:16:21 4 recognizes that its 1990 description of the particles
16:16:24 5 covered by the REL" -- which is the recommended
16:16:30 6 exposure levels -- or limit -- "for airborne asbestos
16:16:33 7 fiber has created confusion causing many to infer
16:16:36 8 that the nonasbestiform minerals included in the
16:16:40 9 NIOSH definition are 'asbestos.'"
16:16:43 10 Were you aware of that?
16:16:44 11 A. Again, I haven't reviewed this document.
16:16:47 12 Q. Okay. And then it goes on to say,
16:16:50 13 "Therefore, in this roadmap NIOSH makes clear that
16:16:52 14 such nonasbestiform minerals are not asbestos or
16:16:55 15 asbestos minerals and clarifies which particles are
16:16:58 16 included in the REL."
16:17:03 17 Do you agree -- or were you aware that
16:17:05 18 NIOSH put out this document explicitly to clarify
16:17:09 19 that the nonasbestiform particles, although counted,
16:17:13 20 are not asbestos?
16:17:15 21 A. I guess that's what they stated in 2011.
16:17:18 22 Nothing has changed in the protocols that I can think
16:17:22 23 of in the last six years, seven years.
16:17:33 24 MR. KRASINSKI: Okay. I believe I'm
16:17:35 25 finished, so I'm going to go ahead and let him
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16:17:37 1 have his 15 minutes.
16:17:38 2 FURTHER EXAMINATION
16:17:43 3 BY MR. HYNES:
16:17:43 4 Q. I'll be quick. Dr. Longo, I'm going to
16:17:48 5 flip you to Exhibit 3. This is the November 17
16:17:50 6 letter from Weitz enclosing two of the results. I
16:17:55 7 just want you to take a look at this TEM photograph
16:17:58 8 labeled M66203-005-004. Are you with me?
16:18:04 9 A. Yes, sir.
16:18:05 10 Q. And we looked at this earlier; is that
16:18:06 11 correct?
16:18:06 12 A. We have.
16:18:07 13 Q. And you said that you saw something like
16:18:09 14 five or six individual fibers in this TEM image; is
16:18:14 15 that correct?
16:18:14 16 A. Yes.
16:18:14 17 Q. And could I have you circle the five or
16:18:18 18 six individual fibers there, please?
16:18:49 19 A. (Indicating).
16:18:51 20 Q. And just for the record, Dr. Longo
16:19:34 21 identified the five different fibers he identified on
16:19:39 22 M66203-005-004. Thank you.
16:19:44 23 And next I would like to turn to your
16:19:49 24 Below-the-Waist report. Pages not numbered. It's
16:19:56 25 Exhibit 7 here. I wanted to flip to the image that's
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16:32:53 1 record. The September 2, 2017, report, the
 16:32:59 2 Below-the-Waist report, to my knowledge that was
 16:33:02 3 not part of Dr. Longo's reliance materials in
 16:33:07 4 the Herford matter and so to the extent that
 16:33:10 5 this was not disclosed until -- as part of his
 16:33:15 6 reliance materials in this case until today's
 16:33:18 7 deposition, I would like to put an objection on
 16:33:20 8 the record about that.
 16:33:24 9 THE WITNESS: It was produced in Lanzo.
 16:33:28 10 MR. COOPER: Well.
 16:33:28 11 MR. HYNES: But the letter refers to
 16:33:30 12 materials relied upon in Herford.
 16:33:32 13 THE WITNESS: That's not my argument.
 16:33:33 14 MR. COOPER: I'm going to say, I
 16:33:35 15 appreciate you throwing your two cents in there,
 16:33:39 16 but ultimately we'll deal with it with the
 16:33:42 17 court, actually.
 16:33:43 18 The one thing I was told to ask is if you
 16:33:45 19 guys are willing to stip to use a rough, if
 16:33:49 20 necessary, for any motions in limine?
 16:33:53 21 MR. KRASINSKI: Yes.
 16:33:54 22 MR. HYNES: I agree.
 16:33:55 23 Q. (By Mr. Hynes) And I guess I'll close
 16:33:58 24 out. I had asked you earlier whether we've covered
 16:34:03 25 all of your opinions that you intend to offer at
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16:34:05 1 trial in this case.
 16:34:06 2 At this point, late in the day, have we
 16:34:09 3 covered essentially all the opinions that you're
 16:34:12 4 intending to offer in this case?
 16:34:16 5 A. It's always hard for me to know everything
 16:34:18 6 that I've stated and if I've covered everything or
 16:34:21 7 not, but I believe I've covered the majority of the
 16:34:23 8 opinions that I would be offering in this case.
 16:34:25 9 And I'm not saying I haven't covered them
 16:34:28 10 all, but it's after six hours of deposition, I can't
 16:34:33 11 imagine there's something that I didn't cover.
 16:34:36 12 MR. HYNES: All right. Do you have
 16:34:37 13 anything else?
 16:34:39 14 MR. KRASINSKI: No.
 16:34:55 15 (Deposition concluded at 4:34 p.m.)
 16 16 (Pursuant to Rule 30(e) of the Federal
 17 Rules of Civil Procedure and/or O.C.G.A.
 18 9-11-30(e), signature of the witness has been
 19 reserved.)
 20 (Original transcript sent to Mr. Hynes.)
 21
 22
 23
 24
 25

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1 C E R T I F I C A T E

2
 3 STATE OF GEORGIA:
 4 COUNTY OF HALL:
 5

6 I hereby certify that the foregoing
 7 transcript was taken down, as stated in the
 8 caption, and the questions and answers thereto
 9 were reduced to typewriting under my direction;
 10 that the foregoing pages 1 through 218 represent
 11 a true, complete, and correct transcript of the
 12 evidence given upon said hearing, and I further
 13 certify that I am not of kin or counsel to the
 14 parties in the case; am not in the regular
 15 employ of counsel for any of said parties; nor
 16 am I in anywise interested in the result of said
 17 case.

18 This, the 29th day of November, 2017.
 19

21 _____
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1
 2 C O U R T R E P O R T E R D I S C L O S U R E

3 Pursuant to Article 10.B. of the Rules and
 4 Regulations of the Board of Court Reporting of the
 5 Judicial Council of Georgia which states: "Each court
 6 reporter shall tender a disclosure form at the time
 7 of the taking of the deposition stating the
 8 arrangements made for the reporting services of the
 9 certified court reporter, by the certified court
 10 reporter, the court reporter's employer, or the
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